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Paper No. 32

QUALCOMM INCORPORATED
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MAILED

MAR 28 2003

Technology Center 2600

In re Application of:
Krishnamurthi, et al.
Application No. 08/863,457
Filed: May 27, 1997
For: METHOD AND APPARATUS FOR
PROVIDING AN ALERT WITH INFORMATION
SIGNAL BETWEEN A MOBILE SWITCHING
CENTER AND A BASE STATION

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 21, 2003 and resubmitted on January 28, 2003.

*The petition is **granted**.*

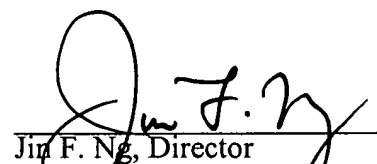
This application became abandoned for failure to timely reply to a final Office action mailed on November 5, 2001. A shortened statutory period of three (3) months was set for applicant to respond. No response was entered into the record within the period for response. The application was considered abandoned as of February 6, 2002. A Notice of Abandonment was mailed December 17, 2002.

Petitioner alleges to have timely filed a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the USPTO receipt that is date stamped February 4, 2002, indicating PTO receipt of the RCE before the expiration of the period for response to the final Office action.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

Copies of the RCE papers were included with the petition. These papers have been entered into the application file. The file will be forwarded to the examiner for further consideration in due course.


Jim F. Ng, Director
Technology Center 2600
Communications